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REPUBLIC OF TURKEY COURT OF CASSATION

COURT OF CASSATION CODE OF CONDUCT FOR PUBLIC PROSECUTORS

PREAMBLE

WHEREAS the Universal Declaration of Human Rights enshrines the principles of equality before the law, the presumption of innocence, and the right to a fair and public hearing before an independent and impartial tribunal;

WHEREAS the organization and administration of justice should be inspired by these principles;

WHEREAS the crucial role that Public Prosecutors play in the criminal justice process places obligations on them to act at all times with respect for and compliance with these principles, and in accordance with the highest ethical standards and in the best interests of justice;

WHEREAS the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders meeting in Havana in 1990 adopted the Guidelines on the Role of Prosecutors;

WHEREAS the Conference of Prosecutors General of Europe, meeting in Budapest in 2005 under the auspices of the Council of Europe, adopted European Guidelines on Ethics and Conduct for Public Prosecutors (“The Budapest Guidelines”);

WHEREAS the Consultative Council of European Judges and the Consultative Council of European Prosecutors jointly adopted, in 2009, the Opinion on the relations between Judges and Prosecutors in a Democratic Society (“the Bordeaux Declaration”);

WHEREAS the United Nations Commission on Crime Prevention and Criminal Justice, in 2008, invited Member States, consistent with their domestic legal systems, to encourage their prosecution services to take into consideration the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors developed by the International Association of Prosecutors when reviewing or developing rules with respect to the professional and ethical conduct of members of prosecution services;

The Chief Public Prosecutor’s Office of the Court of Cassation, having taken into consideration the aforementioned principles, do hereby ESTABLISH the following Code of Conduct for Public Prosecutors of the Court of Cassation.

Title

1. This Code shall be referred to as the “Code of Conduct for Public Prosecutors of the Court of Cassation.”

Applicability

2. This Code shall apply to the Chief Public Prosecutor, Deputy Chief Public Prosecutors of the Court of Cassation, and all Public Prosecutors serving in the Court of Cassation.

Construction

3. This Code shall be construed in accordance with the “Court of Cassation Code of Judicial Conduct.”

Judicial Ethics Advisory Committee

4. The provisions of the Court of Cassation Code of Judicial Conduct relating to “JUDICIAL ETHICS ADVISORY COMMITTEE” shall also apply to the Court of Cassation Code of Conduct for Public Prosecutors.

Code

5. The provisions of the Court of Cassation Code of Conduct for Public Prosecutors are as follows:

1. PROFESSIONAL CONDUCT

Public Prosecutors of the Court of Cassation shall at all times;

- 1.1 Discharge their duties in accordance with the national and international law,
- 1.2 Maintain the honour and dignity of their profession,
- 1.3 Exercise the highest standards of integrity and care,
- 1.4 Discharge their duties in a fair, impartial, independent and consistent manner and appear so.
- 1.5 Conduct themselves professionally in accordance with the law and the rules and ethics of their profession,
- 1.6 Strive to maintain and enhance their professional knowledge and skills, and keep themselves well-informed and aware of legal developments,
- 1.7 Protect and uphold human dignity and human rights, in full awareness of serving on behalf of the public,
- 1.8 Preserve professional confidentiality,
- 1.9 Respect the right of all people to be held equal before the law, and abstain from discrimination against any person on any ground such as gender, race, colour, language, religion, sect, political or other opinion, sexual orientation, national or social origin, property, prosperity, birth, health, disability or any other status,
- 1.10 Avoid any speech or behaviour that may be perceived as sexual harassment by a reasonable observer, and not allow persons under their supervision to engage in such speech or behaviour,
- 1.11 Perform respectfully and politely the tasks in relation to courts, law enforcement, public entities, personnel, clients and lawyers,
- 1.12 Not engage in mobbing (psychological harassment) against their colleagues and personnel, or allow such behaviour.

2. INDEPENDENCE

2.1 Public Prosecutors of the Court of Cassation shall discharge their duties independently in accordance with the law.

2.2 Public Prosecutors of the Court of Cassation shall independently in a manner that will not cause, in the eyes of the parties or of the society, any perception of collusion with judges or external interference with their area of duty.

3. IMPARTIALITY

Public Prosecutors of the Court of Cassation shall;

3.1 Discharge their duties impartially without fear, favour or prejudice.

3.2 Not allow their personal or financial interests or their family, social or other relationships, improperly to influence their professional conduct. They shall particularly not act as prosecutors in cases in which they, their family or business associates have a personal, private or financial interest or association.

4. CONDUCT IN CRIMINAL PROCEEDINGS

Public Prosecutors of the Court of Cassation shall;

4.1 Discharge their duties fairly, consistently and within reasonable time,

4.2 Respect the presumption of innocence and the right of protection against defamation,

4.3 Uphold the principle of fair trial as enshrined in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and explicitly expressed in the Case-Law of the European Court of Human Rights,

4.4 Take care to remain impartial and objective in their relations with the parties,

4.5 Strive to make and conclude all necessary and reasonable investigation into the offence,

4.6 Exercise their powers objectively, impartially and professionally where they personally conduct or have law enforcement or other officials conduct the criminal investigation,

4.7 Ensure, when supervising the criminal investigation, that law enforcement and other officials respect the law and fundamental human rights,

4.8 Proceed, in the institution of criminal proceedings, only when a case is well-founded, upon evidence reasonably believed to be reliable and admissible, or otherwise return a decision of non-prosecution,

4.9 Ensure that the safety and rights are protected of victims, witnesses and vulnerable groups in need of protection,

4.10 Ensure that parties are informed of any alternative dispute resolution options such as mediation and conciliation in the quest for justice,

4.11 Safeguard the rights of the suspect and the accused in co-operation with the court and other relevant agencies,

4.12 Safeguard the principle of equality of arms, in particular by disclosing information to the suspect and/or accused and his/her attorney in accordance with the law and the principle of fair trial,

4.13 Collect all evidence irrespective of whether it is to the advantage or disadvantage of the suspect; examine the evidence to ascertain if it has been lawfully obtained,

4.14 Refuse to use evidence obtained through unlawful methods and particularly methods which constitute torture or cruel treatment, against anyone other than those

who applied such methods; and ensure that appropriate action is taken against those responsible for using such methods,

4.15 Always search for the truth and assist the court to arrive at the truth and to do justice between the community, the victim and the accused according to law and the dictates of fairness,

4.16 In order to ensure the fairness and effectiveness of investigations and prosecutions;

(a) Co-operate with law enforcement, courts, parties' attorneys and other government agencies, whether nationally or internationally,

(b) Render assistance to the prosecution services and colleagues of other jurisdictions, in accordance with the law and in a spirit of mutual co-operation.

5. PRIVATE CONDUCT

Public Prosecutors of the Court of Cassation shall;

5.1 Not compromise the actual or the reasonably perceived dignity, integrity, and impartiality of their profession by behaviours and activities in their private lives,

5.2 Respect and obey the law at all times,

5.3 Conduct themselves in such a way as to promote and retain public confidence in their profession,

5.4 Not allow their personal or financial interests or their family, social or other relationships, improperly to influence their professional conduct,

5.5 Not use any information to which they have had access during the course of their work to further their own private interests or those of others,

5.6 Not accept any gifts, prizes, benefits, inducements or hospitality which may be seen to compromise their integrity, fairness and impartiality,

5.7 Act, when using the social media, in a manner to protect the honour, independence and impartiality of their profession,

5.8 Not make statements to the public that will compromise the honour, independence and impartiality of their profession.